IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C.R.No.6677 of 2006

Date of Decision : December 14, 2006.

M/s Khaitan Electricals Limited ..... Petitioner

Vs.

M/s Rubber India and others ..... Respondents

Coram : Hon'ble Mr.Justice P.S.Patwalia

* * *

Present : Mr.Chetan Mittal, Advocate
for the petitioner.

Mr.Akshay Bhan, Advocate
for the respondents.

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P.S.Patwalia, J. (Oral) :

C.M.No.25374-C II of 2006 :

Application is allowed.

Exemption from filing certified copies of judgment is granted.

C.M.No.25376-C II of 2006 :

Notice of this application seeking condonation of 11 days' delay in filing the present revision.

Mr.Akshay Bhan, learned counsel appearing for the Caveator accepts notice. After hearing learned counsel for the parties delay of 11 days in filing the present revision is condoned.

Main Case :

The present revision petition has been filed by the respondent-tenant against concurrent findings recorded by the Rent Controller and the Appellate Authority allowing eviction petition filed by the landlord, respondent herein and ordering the eviction of the petitioner and proforma

respondents no.2 and 3 from the premises in dispute. A reading of the judgment of the lower appellate court would show that the eviction has been ordered by the lower appellate court after recording a finding against the petitioner on the ground of sub-letting. To assail the said finding learned counsel for the petitioner has drawn my attention to the relevant clause of the lease deed reproduced in paragraph 2 of the `Grounds of Revision' and contended that the petitioner-lessee had been given a right to sub-let the premises wholly or in part to its associates. He contends that proforma respondents no.2 and 3 are actually the associates of the petitioner. To support this contention learned counsel has submitted that job work was being done by the aforesaid two respondents for the petitioner and thus they should be considered to be the associates of the petitioner. I cannot accept this submission. The lower appellate court after a detailed examination of the evidence has found that in so far as the proforma respondent no.2 is concerned it was a sole proprietorship and its karta was one Pawan Bajaj. Pawan Bajaj was neither a Director of the petitioner-company nor in any other way associated with the petitioner-company. The lower appellate court after examining the evidence of Pawan Bajaj held that the said witness has deposed that M/s Khaitan Electricals Limited has a separate provident fund and ESI number and was a limited company which prepares its balance sheets separately and also profit and loss sheet separately. It was further stated that so far his firm is concerned, it is a polluting unit and he has separate license for the same. He also deposed that as on the date of his deposition he was not occupying the demised premises and has got an alternative unit on the ground that it was a polluting unit and had to be re-established in a proper zone. The lower appellate court has further found that so far as respondent no.3 is concerned even that company has a separate provident fund number and separate sales tax registration. It had submitted its memorandum of articles of association which were also distinct from that of the petitioner's. List of directors was also distinct. It was on the aforesaid facts that the lower appellate court concluded that the firms were

independent from the petitioner-company and could not be considered to be the associates of the petitioner-company.

The Rent Controller had also recorded the same findings of facts after assessing the evidence on record.

I do not find the findings recorded to be based on mis-reading of evidence or perverse so as to warrant interference by way of the present revision petition. On the other hand after going through the findings recorded I agree with the reasoning adopted by the lower appellate court. I therefore find no merit in this revision petition and the same is accordingly dismissed.

Learned counsel for the petitioner at this stage contends that they have been running their unit from the said premises since the last two decades and it would take sometime to get an alternative premises and shift there. He states that they should be granted one year's time to vacate the premises. Learned counsel for the Caveator on the other hand submits that according to his instructions the petitioner has already got an alternative site and has shifted or is in the process of shifting. He however states that this Court may grant any reasonable time provided the petitioner files a written undertaking in this Court to hand over the vacant possession at the end of that period.

Keeping in view the fact that the petitioner-company is an industrial unit running for the last two decades it is directed that the petitioner would hand over the vacant possession of the site to the respondent-landlord by 30.11.2007 subject to filing of a written undertaking to the said effect in this Court within four weeks from today. The arrears of rent, if any due, would be paid within four weeks from today and future rent shall also be tendered by way of a Bank Draft by the 10th of every month.

December 14, 2006 (P.S.Patwalia)
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